

ALABAMA PUBLIC SERVICE COMMISSION

COUNTY OF Kulton
STATE OF Georgia

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State and County aforesaid, personally came and appeared Shelley Padgett, who being by me first duly sworn deposed and said that he/she is appearing as a witness on behalf of BellSouth Telecommunications, Inc. before the Alabama Public Service Commission in Docket No. 29054, IN RE: Implementation of the Federal Communications Commission's Triennial Review Order (Phase III – Continued Availability of Unbundled High Capacity Loops and Transport), and if present before the Commission and duly sworn, his/her statements would be set forth in the annexed Direct testimony consisting of 39 pages and 15 exhibits.

Shelley W. Padgett

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 3rd DAY OF MARCH, 2004

Micheale F. Bixler Notary Public

MICHEALE F. BIXLER
Notary Public, Douglas County, Georgia
My Commission Expires November 3, 2005

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BELLSOUTH TELECOMMUNICATIONS, INC.
DIRECT TESTIMONY OF SHELLEY W. PADGETT
BEFORE THE ALABAMA PUBLIC SERVICE COMMISSION
DOCKET NO. 29054, PHASE III
MARCH 5, 2004

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH BELLSOUTH
TELECOMMUNICATIONS, INC. (“BELLSOUTH”) AND YOUR BUSINESS
ADDRESS.

A. My name is Shelley W. Padgett. I am employed by BellSouth as Manager – Regulatory
and Policy Support in the Interconnection Services organization. My business address is
675 West Peachtree Street, Atlanta, Georgia 30375.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND
EXPERIENCE.

A. I graduated summa cum laude from Harding University in 1992, with a Bachelor of Arts
degree in International Studies, and I did post-graduate work at The George Washington
University. I began my career in market research at ALLTEL Telecommunications, Inc.,

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1 but left to obtain a Master of Business Administration degree from Texas A&M
2 University, graduating in 1998. After receiving my graduate degree, I began employment
3 with BellSouth in the Interconnection Services organization. I have held various
4 positions involving Negotiations and Product Management within the BellSouth
5 Interconnection Services organization. I have held my present position since October
6 2001.

7
8 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

9
10 A. I identify the customer locations and interoffice transport routes in BellSouth's territory
11 in Alabama where the triggers for loop and transport facilities established by the FCC in
12 its Triennial Review Order (TRO) have been satisfied, and where Competitive Local
13 Exchange Providers (CLECs) are therefore not impaired without access to unbundled
14 high-capacity loops or dedicated transport.

15
16 The first part of my testimony focuses on the facilities triggers for high-capacity loops. I
17 describe the two triggers the FCC established, explain how they should be applied, and
18 present evidence of where the triggers have been satisfied in BellSouth's territory in
19 Alabama. My testimony demonstrates that the triggers have been met for DS1 loops to 2
20 customer locations, for DS3 loops to 3 customer locations, and for dark-fiber loops to 3
21 customer locations. For these locations, which represent only a very small percentage of
22 BellSouth's more than 9,000 total locations served by high-capacity loops in Alabama,

PUBLIC VERSION

1 the Alabama Public Service Commission (“ the Commission”) should find that BellSouth
2 is not required to continue offering unbundled loops at the capacity level for which the
3 triggers have been satisfied.

4
5 The second part of my testimony focuses on the facilities triggers for dedicated transport.
6 I describe the two triggers the FCC established, explain how they should be applied, and
7 present evidence of where the triggers have been satisfied in BellSouth’s territory in
8 Alabama. My testimony demonstrates that the triggers have been met for DS1 dedicated
9 transport on 7 interoffice routes, for DS3 dedicated transport on 7 interoffice routes, and
10 for dark-fiber dedicated transport on 5 interoffice routes. For these routes, which
11 represent only a small percentage of the 3,150 total routes between BellSouth’s central
12 offices in Alabama, the Commission should find that BellSouth is not required to
13 continue offering unbundled dedicated transport at the capacity level for which the
14 triggers have been satisfied.

15
16 The third part of my testimony briefly discusses the transition to a market rate
17 environment when the Commission finds that no impairment exists along a particular
18 route or to a specific customer location.

19
20 Q: WHAT IS THE IMPACT OF THE D.C. CIRCUIT COURT OF APPEALS ORDER ON
21 THE TRO IN THIS PROCEEDING?

1 A. Currently the impact of the DC Circuit Court's opinion is unclear. At the time of filing
2 this testimony, the DC Court had vacated large portions of the rules promulgated as a
3 result of the TRO, but stayed the effective date of the opinion for at least sixty days.
4 Therefore my understanding is that the TRO remains intact, but its content, and the rules
5 adopted thereto, must be suspect in light of the court's harsh condemnation of large
6 portions of the order. This condemnation included specific criticisms of the route
7 specific transport analysis. At this time, we will reserve judgment, and the right to
8 supplement our testimony as circumstances dictate, with regard to the ultimate impact of
9 the DC Court's order on this case.

10
11 **II. HIGH-CAPACITY LOOPS**

12
13 Q. WHAT TYPES OF LOOPS DO YOU ADDRESS IN YOUR TESTIMONY?

14
15 A. I discuss DS1, DS3, and dark fiber loops. These loops are described and defined in
16 BellSouth witness Wayne Gray's testimony.

17
18 Q. PLEASE DESCRIBE THE TRIGGERS THAT THE FCC ESTABLISHED TO
19 IDENTIFY CUSTOMER LOCATIONS FOR WHICH COMPETING CARRIERS ARE
20 NOT IMPAIRED WITHOUT ACCESS TO UNBUNDLED LOOPS FROM THE ILEC.

1 A. There are two triggers set forth in the FCC’s TRO – the “self-provisioning trigger”
2 (which applies to DS3 and dark-fiber loops) and the “competitive wholesale facilities”
3 trigger (which applies to DS1 and DS3 loops). If, for a given loop capacity, any
4 applicable trigger is met for a particular customer location, this Commission must find
5 that BellSouth is no longer required to offer unbundled loops at that capacity to the
6 location.

7
8 Both triggers are simple, “bright line” tests that require this Commission to count the
9 number of competitors providing loops to a given location. To meet the self-provisioning
10 trigger for DS3 or dark-fiber loops, there must be “two or more competing providers not
11 affiliated with each other or with the incumbent LEC, including intermodal providers of
12 service comparable in quality” that have self-deployed facilities to a particular location
13 (§51.319(a)(4)(ii)(B) and §51.319(a)(5)(i)(B)). To meet the competitive wholesale
14 facilities trigger for DS1 or DS3 loops, there must be “two or more competing providers
15 not affiliated with each other or with the incumbent LEC, including intermodal providers
16 of service comparable in quality” that have deployed facilities to a particular location and
17 that are offering a loop on a widely available wholesale basis to other carriers seeking to
18 serve customers at the location. (§51.319(a)(4)(ii) and §51.319(a)(5)(i)(B)).

19
20 Carriers may attempt to add imaginary requirements to those outlined in the TRO in order
21 to make the triggers more difficult to meet (e.g., claiming capacity limits or the need for
22 additional electronics before facilities can qualify for the triggers). However, the rules

PUBLIC VERSION

1 are quite clear as to the requirements for meeting the triggers, the TRO does not allow
2 room for additional criteria to be added, and this Commission should resist any call to do
3 so.

4
5 Q. DOES A LOOP HAVE TO TERMINATE AT AN ILEC CENTRAL OFFICE TO
6 COUNT TOWARD THE TRIGGERS?

7
8 A. No. If the provider of the loop facility is the ILEC, as it is the case for UNEs, the central
9 office would, of course, be the ILEC central office. However, in the context of the
10 triggers for high-capacity loops, the loops in question are alternative loops provided by
11 CLECs. The objective of the self-provisioning triggers is to identify if “two or more
12 competitive LECs have self-provisioned loop transmission facilities, either intermodal or
13 intramodal facilities, to a particular customer location” and are “serving customers at that
14 location at the relevant loop capacity level.” (TRO, 332). Clearly, whether the other side
15 of the loop goes to an ILEC central office or some other point in the CLEC’s network is
16 completely immaterial to the showing of a CLEC’s ability to serve customers in that
17 location over their own loop facilities, and it is therefore irrelevant for purposes of
18 meeting the trigger. The discovery responses of numerous carriers included lists of “self-
19 provisioned loops” that do not terminate at a BellSouth central office, demonstrating that
20 carriers agree that for purposes of the trigger analysis, the “owner” of the central office is
21 irrelevant.

1 The FCC did not differentiate its use of the term “loop” in the context of the wholesale
2 trigger from its use in the self-provisioning trigger. The TRO describes both tests using
3 the same language without any distinction between what qualifies as a loop for each of
4 the triggers and without adding any extra condition to the wholesale trigger specifying
5 that loops have to terminate at an ILEC central office. In Paragraph 329 of the TRO, the
6 FCC says that “incumbent LEC unbundling obligation[s] can be eliminated ...where two
7 or more unaffiliated competitive providers have deployed transmission facilities to the
8 location and are offering alternative loop facilities to competitive LECs on a wholesale
9 basis at the same capacity level (Competitive Wholesale Facilities Trigger).” (Emphasis
10 added) The important point is that both triggers demonstrate that CLECs can provide
11 service to customers at a location using alternative facilities.

12
13 Q. SHOULD A FACILITY QUALIFY FOR THE SELF-PROVISIONING TRIGGER IF
14 THE CLEC DOES NOT HAVE ACCESS TO THE ENTIRE CUSTOMER
15 LOCATION?
16

17 A. Yes. The requirement that each “competing provider has access to the entire customer
18 location, including each individual unit within that location” (47 C.F.R. §§
19 51.319(a)(4)(ii)(B), (a)(5)(i)(B)(2)) applies only to the wholesale triggers for DS1 and
20 DS3 loops. No such requirement exists for any of the self-provisioning triggers for high-
21 capacity loops. (See 47 C.F.R. § 51.319(a)(5)(i)(A), (6)(i))
22

1 Q. DID BELLSOUTH CONDUCT A CAPACITY-SPECIFIC ANALYSIS?

2
3 A. Yes. BellSouth examined the evidence provided through discovery to determine what
4 types of facilities a carrier has provisioned to a specific customer location. If the carrier
5 indicated that it had provisioned only DS1 capacity, the facility was counted toward the
6 DS1 Wholesale Trigger only. If the carrier indicated that it had a DS3 or higher loop or
7 dark fiber in place, or if we use data from GeoLIT™ Plus Report indicating fiber-based
8 facilities, it can be inferred that the carrier is capable of providing any capacity service.
9 As BellSouth witness Mr. Wayne Gray discusses in his testimony, carriers typically
10 deploy fiber-optic facilities that can operate at a range of capacities determined by the
11 electronics attached to them. For example, when laying fiber it makes sense to deploy
12 high-capacity OCn facilities so that there will always be enough bandwidth to handle the
13 traffic on a given loop. The carrier then attaches electronics to subdivide (or
14 “channelize”) the available capacity, activating the amount of capacity and number of
15 channels needed along the loop. Indeed, this channelization is extremely common given
16 that the vast majority of retail loops sold are at the DS3 level or below – indeed,
17 according to the market research firm IDC, more than 99% of dedicated enterprise loops,
18 excluding switched voice lines, are provided at DS3 or lower capacity.

19
20 Q. SHOULD AN OCn FACILITY QUALIFY FOR THE DS3 AND DS1 WHOLESALE
21 TRIGGERS?

PUBLIC VERSION

1 A. Yes, as long as the competitive carrier offers DS1 and DS3 loop facilities to other carriers
2 on a wholesale basis, the capacity of the underlying facility is irrelevant. As explained by
3 Mr. Gray, a carrier with channelized OCn facilities is operationally ready to provide DS1
4 or DS3 facilities and its network can support the sale of DS1 and DS3 loops, so whether
5 the carrier wholesales depends only on its choice of commercial strategy.
6

7 Q. REGARDING THE DARK FIBER TRIGGERS, DOES THE TRO REQUIRE THE
8 COMPETITIVE CARRIER TO HAVE AVAILABLE UNLIT FIBER STRANDS IN
9 ITS LOOP FACILITY?
10

11 A. No. The dark fiber trigger is a self-provisioning trigger and therefore it does not require
12 the provisioning carrier to have additional dark fiber strands (i.e., fiber strands that have
13 not been lit by attaching transmission electronics) to potentially sell to other carriers. The
14 Rule is clear that as long as a competitive carrier deployed a fiber loop to a customer
15 location, it should qualify for the dark fiber trigger at that customer location.
16 Specifically, the FCC's rules require that "two or more competing providers (...) have
17 deployed their own dark fiber facilities at that specific customer location." (47 C.F.R. §
18 51.319(a)(6)(i), emphasis added).
19

20 Q. WHAT EVIDENCE DID YOU USE TO IDENTIFY THE CUSTOMER LOCATIONS
21 WHERE COMPETITIVE CARRIERS HAVE DEPLOYED LOOP FACILITIES THAT

1 QUALIFY FOR THE SELF-PROVISIONING TRIGGERS ON DS3 AND DARK
2 FIBER LOOPS?

3
4 A. I used two data sources to identify customer locations where competitive carriers have
5 deployed loop facilities that qualify for the self-provisioning triggers.

6
7 First and foremost, I used carriers' discovery responses describing the locations they
8 serve with high-capacity loop facilities. I aggregated these responses by building,
9 counting facilities where carriers confirmed that they have deployed fiber towards the
10 self-provisioning trigger for dark fiber loops, and facilities where carriers confirmed
11 transmission capacities of DS3 or OCn towards the self-provisioning trigger for DS3
12 loops. (For the reasons explained above, many carriers' responses indicated OCn
13 facilities even though carriers rarely sell OCn loops to end users.)

14
15 Since BellSouth has not received discovery responses from several carriers with loop
16 facilities in Alabama and not every carrier that responded has provided BellSouth with
17 complete data on where it deployed loops, I was required to turn to a third-party vendor
18 for data on carriers from whom I did not have adequate responses. BellSouth purchased
19 data from GeoResults, Inc., an independent consulting firm specializing in national
20 business and residential databases, customized database marketing and geo-mapping
21 services, business level telecom bandwidth, demand and spend estimates, a

1 comprehensive set of telecom competitive intelligence reports, proprietary wire center
2 boundary products and spatial analysis tools and services.

3
4 GeoResults provided its GeoLIT™ Plus Report, listing buildings that contain fiber-based
5 equipment together with the names of the carriers that own the equipment. The
6 GeoLIT™ Plus Report was further refined to exclude instances where a carrier obtained
7 the loop facility from another carrier (including BellSouth) on a wholesale basis, leaving
8 only those buildings where the carrier has deployed its own fiber loop facility capable of
9 providing DS3 and dark fiber loops. In the absence of responses to discovery, which
10 comply with the triggers used by the FCC, BellSouth relied on information from the
11 GeoLIT™ Plus Report to determine where the carrier has deployed loops. Exhibit SWP-
12 13 lists these carriers.

13
14 Q. WHY DO YOU BELIEVE THE GEOLIT™ PLUS REPORT IS A RELIABLE
15 SOURCE OF DATA TO USE IN THE TRIGGERS' ANALYSIS?

16
17 A. First let me reiterate that using the GeoResults data is the best alternative BellSouth had
18 to overcoming the lack of useful discovery data, and that I have used this data only in
19 instances where a carrier has not provided us with complete information through
20 discovery.

1 The GeoLIT™ Plus Report is a summary of building locations that have been identified
2 as being served by a fiber facility and lists carriers providing fiber-based services in those
3 buildings. The report is based on the CLONES (Central Location Online Entry System)
4 database from Telecordia, to which carriers self-report records of their equipment as it is
5 deployed. This database is widely used in the industry to create, update, and maintain
6 Common Language Location (CLLI) Codes to uniquely identify geographic places and
7 certain types of equipment. GeoResults uses proprietary analysis methodologies and data
8 compilation techniques to determine, from CLONES, which pieces of equipment are
9 fiber-based.

10
11 I also note that the GeoLIT™ Plus Report is conservative, because it does not identify
12 all instances where competitive carriers have deployed fiber-base loop facilities:

13 GeoResults uses a conservative algorithm to identify fiber-based loop facilities, which
14 only identifies facilities as “lit” when it is absolutely clear from the description field in
15 CLONES that the equipment is fiber-based – when in doubt, the facility is not identified
16 as “lit.” Moreover, since creating records in CLONES is voluntary, there are not
17 infrequent situations where a competitive carrier deploys a loop facility to a customer
18 location, but fails to create a CLONES record for the facility. Facilities with no records
19 in CLONES are obviously not captured in the GeoLIT™ Plus Report from GeoResults.

20
21 Q. WHICH FACILITIES COULD QUALIFY FOR THE “COMPETITIVE WHOLESALE
22 FACILITIES” TRIGGER FOR DS1 AND DS3 LOOPS?

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A. Any facility that qualifies for the self-provisioning trigger could potentially meet the wholesale facilities trigger also – the only question is whether the provisioning carrier chooses to offer loops on it to other carriers on a wholesale basis. Further, because any carrier with an OCn or DS3 facility is operationally able to provide a DS1 loop, as described by Mr. Gray, the same set of qualifying facilities should be used for DS1 and DS3 loops.

Q. HAVE YOU IDENTIFIED CARRIERS THAT USE THEIR FACILITIES TO OFFER LOOPS ON A WHOLESALE BASIS? IF SO, HOW?

A. Yes. Although I believe it would be rational for any carrier with its own facilities to wholesale, to be conservative I only identified as a “wholesaler” a carrier for which there is actual evidence that it has entered into wholesale deals or that it actively promotes wholesale service. This evidence was compiled from a number of sources:

- Carriers’ discovery responses, indicating the offer or purchase of wholesale loops and/or transport
- BellSouth’s experience in losing wholesale contracts to another carrier
- A carrier’s own advertisements offering wholesale services
- A carrier’s public statements and filings indicating willingness to wholesale or revenues from wholesaling
- Analyst and industry reports identifying carriers as wholesalers

PUBLIC VERSION

1 A list of carriers that offer wholesale facilities based on these sources is included as
2 Exhibit SWP-1. Excerpts from the advertisements, public statements, and industry
3 reports regarding these carriers' wholesaling activities are included in Exhibit SWP-11.
4

5 Some carriers have supplied discovery responses indicating that they do not wholesale
6 loops. However, given the misinterpretation of "loop" as having to terminate at an ILEC
7 central office in order to qualify for the wholesale trigger (explicitly claimed by KMC,
8 AT&T, and Xspedius in filings in Florida), BellSouth used other indications of a carrier's
9 willingness to wholesale loops in these cases. In the absence of responses to discovery
10 that comply with the triggers used by the FCC, we used other evidence (which is
11 presented in summary form in Exhibit SWP-11) to infer that the carrier offers wholesale
12 loops.
13

14 It is important to note that for a competitive provider to qualify for the wholesale trigger,
15 it does not have to be *currently selling* wholesale services – the Order is clear that the
16 competitive provider only has to be *willing* to provide wholesale service (TRO ¶329).
17 That is, even if it does not currently have a wholesale customer, it would still qualify as
18 long as it is willing to provide wholesale service. Given that, the analysis to determine
19 which competitive carriers offer facilities on a wholesale basis can be conducted by
20 carrier, rather than by customer location, because the decision about whether a carrier is
21 willing to wholesale is one of business model, and so it is made at the company level
22 rather than on a location-by-location basis. In other words, if a carrier is willing to

1 wholesale high-capacity loops at a given customer location, it is also likely to be willing
2 to wholesale high-capacity loops at all other customer locations where it has deployed its
3 own loop facilities. I don't know of any reason to believe that this is not the case and
4 nothing that we learned through discovery suggests otherwise.

5
6 Q. DOES BELLSOUTH PROVIDE LOCATION-SPECIFIC EVIDENCE THAT THE
7 WHOLESALE TRIGGER HAS BEEN MET?

8
9 A. Yes. BellSouth does in fact provide location-specific evidence that the wholesale trigger,
10 as described by the FCC in the TRO, is met. Wherever relief is claimed, granular
11 evidence is presented that at least two competitive carriers who are willing to offer
12 wholesale service are present at each customer location at the specific capacity level.

13
14 A carrier only counts towards the trigger at a given customer location if it has deployed
15 its own facilities to that specific location *and* is a wholesaler. BellSouth uses data from
16 discovery and the GeoLIT™ Plus Report to obtain granular evidence that carriers have
17 deployed their own facilities on a location-by-location basis. Carriers are classified as
18 wholesalers at the carrier level based on the evidence from discovery and other that
19 indicate a carrier's willingness to wholesale. This evidence is presented in summary
20 form in Exhibit SWP-11.

PUBLIC VERSION

1 The classification of a carrier as a wholesaler is made at the carrier level since the
2 willingness to sell wholesale to other carriers is part of each carrier's commercial strategy
3 rather than a decision that is made at a granular level for each route and customer
4 location. The wholesale trigger defined by the FCC in the TRO is consistent with this
5 standard since it does not require the carrier to currently provide wholesale service in the
6 customer location, but only that it is willing to offer access to its loop facilities on a
7 wholesale basis (e.g., see TRO 337). Further, as explained earlier, it would create
8 internal and external problems for a wholesaler to selectively refuse to provide wholesale
9 service on part of its facilities.

10
11 All the evidence that BellSouth collected, including advertisements, public statements
12 and industry reports, support the conclusion that carriers willing to sell their own
13 facilities on a wholesale basis do not selectively refuse to provide wholesale service on
14 part of their transport and loop facilities. Any criterion that required evidence of
15 willingness to wholesale at the route or customer location level would be impossible to
16 meet – carriers do not advertise wholesale service on a location-by-location basis, but
17 rather indicate general willingness to do so.

18
19 Q. HAVE YOU IDENTIFIED LOCATIONS THAT MEET THE DS1 WHOLESALE
20 FACILITIES TRIGGER? IF SO, PLEASE IDENTIFY THOSE LOCATIONS.

1 A. Yes. The customer locations that satisfy the wholesale trigger for DS1 loops are listed in
2 Exhibit SWP-2. Exhibits SWP-1 and SWP-3 provide supporting evidence used in the
3 analysis. Exhibit SWP-3 shows, by location, the carriers with high-capacity loops
4 deployed in Alabama and the capacities the carrier is capable of providing to that
5 location. As previously discussed, Exhibit SWP-1 lists carriers that are willing to offer
6 services on a wholesale basis.

7
8 Q. HAVE YOU IDENTIFIED LOCATIONS THAT MEET THE DS3 SELF-
9 PROVISIONING TRIGGER? IF SO, PLEASE IDENTIFY THOSE LOCATIONS.

10
11 A. Yes. The customer locations that satisfy the self-deployment trigger for DS3 loops are
12 listed in Exhibit SWP-4. Exhibit SWP-3 provides supporting evidence used in the
13 analysis, as described above.

14
15 Q. HAVE YOU IDENTIFIED LOCATIONS THAT MEET THE DS3 WHOLESALE
16 FACILITIES TRIGGER? IF SO, PLEASE IDENTIFY THOSE LOCATIONS.

17
18 A. Yes. The customer locations that satisfy the wholesale trigger for DS3 loops are also
19 listed in Exhibit SWP-4. Exhibits SWP-1 and SWP-3 provide supporting evidence used
20 in the analysis, as described above.

1 Q. HAVE YOU IDENTIFIED LOCATIONS THAT MEET THE DARK FIBER SELF-
2 DEPLOYMENT TRIGGER? IF SO, PLEASE IDENTIFY THOSE LOCATIONS.

3
4 A. Yes. The customer locations that satisfy the self-deployment trigger for dark fiber loops
5 are listed in Exhibit SWP-5. Exhibit SWP-3 provides supporting evidence used in the
6 analysis, as described above.

7
8 **III. HIGH-CAPACITY TRANSPORT**

9
10 Q. PLEASE DESCRIBE THE TRIGGERS THAT THE FCC ESTABLISHED TO
11 IDENTIFY ROUTES FOR WHICH COMPETING CARRIERS ARE NOT IMPAIRED
12 WITHOUT ACCESS TO UNBUNDLED DEDICATED INTEROFFICE TRANSPORT
13 FACILITIES.

14
15 A. There are two triggers set forth in the TRO – the “self-provisioning trigger” (which
16 applies to DS3 and dark-fiber transport) and the “competitive wholesale facilities” trigger
17 (which applies to DS1, DS3, and dark-fiber transport). If, for a given transport capacity,
18 any applicable trigger is met on a particular route, the Commission must find that
19 BellSouth is no longer required to offer unbundled dedicated transport at that capacity on
20 the route.

1 Both triggers are simple, “bright line” tests that require the Commission to count the
2 number of competitors on a given route. To meet the self-provisioning trigger for DS3 or
3 dark-fiber transport, there must be “three or more competing providers not affiliated with
4 each other or with the incumbent LEC, including intermodal providers of service
5 comparable in quality” that have self-deployed fiber transport facilities along a particular
6 route and that are operationally ready to use those facilities to provide transport along that
7 route. (47 C.F.R. §§ 51.319(e)(2)(i)(A) and (e)(3)(i)(A)). To meet the competitive
8 wholesale facilities trigger for DS1, DS3, or dark-fiber transport, there must be “two or
9 more competing providers not affiliated with each other or with the incumbent LEC,
10 including intermodal providers of service comparable in quality” that are operationally
11 ready and willing to offer wholesale transport of a given capacity along a particular route.
12 (47 C.F.R. §§51.319(e)(1)(ii), (e)(2)(i)(B) and (e)(3)(i)(B)).

13
14 Carriers may attempt to add criteria to those outlined in the TRO in an attempt to make
15 the triggers more difficult to meet. However, as I mentioned previously with regard to
16 the loop triggers, the rules are quite clear as to the requirements for meeting the triggers,
17 and the FCC did not allow room for additional requirements. This Commission should
18 not allow carriers to divert attention from identifying where the triggers have been met by
19 attempting to add imaginary requirements.

20
21 Q. WHAT IS A “ROUTE,” AS THE TERM IS USED IN THE FCC’S TRIGGERS?
22

PUBLIC VERSION

1 A. A route is defined in the FCC's rules as "a transmission path between one of an
2 incumbent LEC's wire centers or switches and another of the incumbent LEC's wire
3 centers or switches" within a LATA. Furthermore "a route between two points (*e.g.*, wire
4 center or switch "A" and wire center or switch "Z") may pass through one or more
5 intermediate wire centers or switches (*e.g.*, wire center or switch "X"). Transmission
6 paths between identical end points (*e.g.*, wire center or switch "A" and wire center or
7 switch "Z") are the same 'route,' irrespective of whether they pass through the same
8 intermediate wire centers or switches, if any." (47 C.F.R. §51.319(e)).
9

10 Q. HOW MIGHT THE DEFINITION OF "ROUTE" BE MISREPRESENTED?
11

12 A. Some CLECs have claimed in discovery that a carrier must provide service directly
13 connecting the two central offices at each end of the route in order for its transport
14 facilities to count towards the transport triggers on that route. They also state that to
15 support a trigger claim, the ILEC must produce evidence that the CLEC self-provisions
16 transport service between the two ILEC wire centers and that each collocation
17 arrangement in question is being used as an endpoint for a transport route.
18

19 These carriers say that most CLEC networks follow a hub and spoke architecture and are
20 constructed such that collocation arrangements are used as a traffic aggregation point that
21 can only backhaul traffic to the CLEC's switch. They apparently believe that even if a
22 CLEC can indirectly send traffic between two ILEC central offices, this CLEC does not

1 count toward the triggers test for that route. However, as the FCC has explained, passing
2 through an intermediate wire center or an intermediate switch – ILEC or CLEC – does
3 not prevent the connection of two central offices to form a route. Rule 319(e) clearly
4 includes “transmission paths between identical points...irrespective of whether they pass
5 through the same intermediate wire centers or switches” in the definition of a route. This
6 misuse of the term “route”, then, clearly is not in agreement with the rules set forth by the
7 FCC.

8
9 Q. HOW WOULD THIS INTERPRETATION OF A “ROUTE” SUBVERT THE FCC’S
10 OBJECTIVE IN CREATING THE TRANSPORT TRIGGERS?

11
12 A. The FCC found, in the course of its Triennial Review proceeding, that competitive
13 facilities are available and designed the triggers to identify where competitive facilities
14 are already available. Paragraph 360 of the TRO states, “The record ...indicates... that
15 competitive DS1, DS3, and dark fiber transport facilities are available on a wholesale
16 basis in some areas, and that competing carriers have deployed their own transport
17 networks in some areas. Because the record is not sufficiently detailed concerning
18 exactly where these facilities have been deployed, and because the nature of transport
19 facilities requires a highly granular impairment analysis, we establish specific triggers for
20 states to apply in conducting such an analysis.” However, contrary to this finding, AT&T
21 and MCI, the two largest CLECs in the country, claim they have no facilities in any of
22 BellSouth’s nine states that would qualify under either transport trigger. This is because

PUBLIC VERSION

1 AT&T and MCI use their own definition of a “route” to justify such claims. It defies
2 logic to claim that the FCC would have set up triggers specifically to identify where
3 carriers have deployed alternative facilities and then define the trigger such that the two
4 largest CLECs in the country, which acquired large CAPs (Competitive Access
5 Providers) (that existed to provide alternative transport in the first place), wouldn’t have
6 any facilities that would qualify.
7

8 Q: IS THERE OTHER EVIDENCE THAT YOU ARE AWARE OF THAT ILLUSTRATES
9 CLECs ARE MORE INTERESTED IN HIDING BEHIND DEFINITIONS, THAN IN
10 PRESENTING ACCURATE FACTS TO THIS COMMISSION?
11

12 A. Yes. In responses to discovery in Docket No. 030850-TP in Florida as well as in
13 Alabama, MCI admitted that *** BEGIN CONFIDENTIAL ***

14 *****

15 ***** END CONFIDENTIAL *** After admitting this, in
16 testimony before the Florida Public Service Commission, MCI’s witness claimed that it
17 did not provide dedicated transport. (See generally Rebuttal Testimony of Lonnie
18 Hardin, p. 7).
19

20 Q. GIVEN THE TRO’S REDEFINITION OF “DEDICATED TRANSPORT”, CAN A
21 TRANSPORT “ROUTE” FOR PURPOSES OF THE TRIGGERS ANALYSIS
22 INCLUDE INDIRECT ROUTES THROUGH A SWITCH?

1
2 A. Yes. Counting indirect routes between ILEC wire centers for the purpose of meeting the
3 dedicated transport triggers is perfectly consistent with the new definition of dedicated
4 transport. The FCC says in Paragraph 366 of the TRO that "...the more reasonable
5 approach...is to not consider those facilities outside of the incumbent LEC's local
6 network as part of the dedicated transport network element that is subject to
7 unbundling....Therefore, we find that the dedicated transport network element includes
8 only those ...facilities that coincide with the incumbent LEC's transport network – the
9 transmission links connecting incumbent LEC switches or wire centers." However,
10 inclusion or exclusion of facilities connecting an ILEC central office and a CLEC switch
11 (i.e., entrance facilities) from the *unbundling* obligation has no bearing on whether or not
12 that "link" is part of the larger "route" connecting ILEC wire centers. In fact, as I will
13 demonstrate, the only purpose of a CLEC deploying more than one entrance facility per
14 LATA is to bypass the ILEC interoffice network and to create an alternative to buying
15 dedicated transport from the ILEC. Therefore it is only logical to count these facilities
16 towards the transport triggers.

17
18 To understand how entrance facilities provide an alternative to dedicated transport
19 provided by the ILEC, see, for example, the case in Exhibit SWP-15, Situation A where a
20 CLEC has only one stand-alone entrance facility from its Point of Presence (POP) to
21 ILEC Central Office (CO) 1 and also needs transmission links to CO2, CO3 and CO4 in
22 order to carry traffic from its end users served from these COs. In a typical CLEC hub

1 and spoke architecture, the CLEC purchases dedicated transport from the ILEC between
2 CO1, where it has its stand-alone entrance facility to its POP, and all the other ILEC COs
3 it needs to reach.

4
5 Now, consider the situation presented in Exhibit SWP-15, Situation B where the same
6 CLEC deploys two additional entrance facilities from its POP to CO2 and CO3. The
7 deployment of these entrance facilities allows the CLEC to bypass the ILEC interoffice
8 network and provides the CLEC with a real alternative to purchasing dedicated transport
9 between ILEC COs (in fact, this is the only purpose of deploying these facilities). In this
10 example, by using the entrance facilities as segments of interoffice routes, the CLEC
11 would have alternative transmission facilities on routes CO1-CO2, CO1-CO3 and CO2-
12 CO3, but would still purchase dedicated transport between CO1 and CO4. No one is
13 arguing that the stand-alone CO to POP facilities should be counted as routes; however, it
14 is obvious that in this scenario “carriers have the ability to use alternatives to the
15 incumbent LEC’s network” (TRO, 360) and therefore must be counted towards the
16 transport triggers.

17
18 Q. IS IT REASONABLE TO INFER THAT A CARRIER HAS A “ROUTE” BETWEEN
19 ANY PAIR OF INCUMBENT LEC WIRE CENTERS IN THE SAME LATA WHERE
20 IT HAS OPERATIONAL COLLOCATION ARRANGEMENTS?
21

1 A. Yes. CLECs are clearly operationally ready to provide transport when they have fiber-
2 based collocation arrangements at both ILEC central offices. Establishing a connection
3 between two operationally ready collocations via a switch or hub typically requires only
4 a software-based configuration of a circuit. Thus, even if a CLEC does not typically use
5 its interoffice facilities to provide transport between ILEC central offices, this fact is
6 irrelevant for the transport triggers since they are operationally ready to do so.

7
8 Moreover, as explained in Mr. Gray's testimony, it is logical and reasonable to assume
9 that a carrier's network within a LATA is fully interconnected. Additionally, MCI
10 indicated that any point on their network may be connected to any other point on the
11 network. MCI, in direct contradiction of its assertions in Florida that it has no facilities
12 that qualify as a route under the triggers, admitted in its response to BellSouth's
13 discovery requests in several states regarding self-provisioned transport facilities
14 between BellSouth central offices that it could connect any "on-net" collocation to any
15 other collocation. Specifically, MCI's response states, "MCI has provided BellSouth
16 with a list of its 'on-net' collocations. This list identifies the BellSouth wire center
17 buildings that are physically on the network owned by MCI. Once traffic is delivered to
18 MCI at any of its on-net collocation sites it can be delivered to any other MCI on-net
19 collocation locations without leaving MCI's network." (See Discovery Responses of
20 MCI in Georgia Dkt. No. 17741-U, filed December 29, 2003; Kentucky Case No. 2003-
21 00379, filed December 15, 2003; Louisiana Dkt. No. U-27572 filed December 8, 2003;

PUBLIC VERSION

Mississippi Dkt. No. 2003-AD-714, filed in December 2003; and North Carolina Dkt. No. P-100, sub 133s, filed December 15, 2003, and February 13, 2004.)

Q. DOES THE FACT THAT CLECS TYPICALLY DO NOT USE THEIR FACILITIES TO CONNECT TWO ILEC CENTRAL OFFICES EXPLAIN WHY THE TRO USES THE TERM “OPERATIONALLY READY” IN THE SELF-PROVISIONING TRIGGER FOR TRANSPORT?

A. Yes. Unlike for loops, where the FCC requires that “each competing provider has (...) deployed its own DS3 facilities at that specific customer location and is serving customers via those facilities at that location,” (47 C.F.R. § 51.319(a)(5)(i)(A), emphasis added), the self-provisioning trigger for transport only requires that “the competing provider has deployed its own transport facilities and is operationally ready to use those transport facilities to provide dedicated DS3 transport along the particular route.” (47 C.F.R. § 51.319(e)(2)(i)(A), emphasis added). Realizing that in most cases CLECs do not use their transport facilities to provide transport between ILEC central offices, the FCC does not require that the CLEC currently provides transport on each specific route, but only that it is operationally ready to do so.

Q. IF A CARRIER HAS AN OCn TRANSPORT FACILITY TO A COLLOCATION ARRANGEMENT IN AN ILEC WIRE CENTER, DOES IT MEET THE “OPERATIONALLY READY” CONDITION IN THE DS1 and DS3 TRIGGERS?

1
2 A. Yes. The FCC's rules say that to count toward the trigger, the competing provider should
3 have "deployed its own transport facilities and [be] operationally ready to use those
4 transport facilities to provide dedicated DS3 transport along the particular route." (47
5 C.F.R. §51.319(e)(2)(i)(1)). In reality, as explained in Mr. Gray's testimony, carriers
6 typically deploy fiber-optic facilities that can operate at a range of capacities determined
7 by the electronics attached to them. For example, when laying fiber it makes sense to
8 deploy high-capacity, OCn facilities so that there will be enough bandwidth to handle all
9 traffic on a given route and leave room for growth. The carrier can then attach electronics
10 to subdivide (or "channelize") the available capacity, activating the amount of capacity
11 and number of channels needed along the route. As Mr. Gray explains, the electronics
12 used to do this channelization of OCn facilities into DS1 or DS3 facilities are relatively
13 inexpensive, are widely available, and can be quickly installed whenever the carrier has
14 demand for DS3 transport facilities. The fact that the capacity of the facility itself is at the
15 OCn level is therefore independent of the carrier's ability to provide a dedicated DS1 or
16 DS3 transport route over that facility.

17
18 Q. DID BELLSOUTH CONDUCT A CAPACITY-SPECIFIC ANALYSIS?

19
20 A. Yes. BellSouth examined the evidence provided through discovery to determine what
21 types of facilities a carrier has provisioned on a specific route. If the carrier indicated
22 that it had provisioned only DS1 capacity, the facility was counted toward the DS1

1 Wholesale Trigger only. If the carrier indicated that it had a DS3 or higher facility or
2 dark fiber in place, or if we used BellSouth data indicating a fiber-based collocation, it
3 can be inferred that the carrier is capable of providing any capacity service, as explained
4 above.

5
6 Q. SHOULD AN OCn FACILITY QUALIFY FOR THE DS3 AND DS1 WHOLESALE
7 TRIGGERS?

8
9 A. Yes, as long as the competitive carrier offers DS1 and DS3 transport to other carriers on a
10 wholesale basis, the capacity of the underlying facility is irrelevant. As explained above,
11 a carrier with channelized OCn facilities is operationally ready to provide DS1 or DS3
12 facilities – its network can support the sale of DS1 and DS3, so whether the carrier
13 wholesales or not depends only on its commercial strategy.

14
15 Q. REGARDING THE DARK FIBER SELF-PROVISIONING TRIGGER, DOES THE
16 TRO REQUIRE THE COMPETITIVE CARRIER TO HAVE AVAILABLE UNLIT
17 FIBER STRANDS IN ITS COLLOCATION ARRANGEMENT?

18
19 A. No. This requirement in the TRO applies only for the wholesale trigger, which requires
20 the competitive provider be ready to provide dark fiber facilities to other carriers. For the
21 self-provisioning trigger, the TRO is clear that as long as a competitive carrier deployed
22 fiber transmission facilities to a collocation arrangement, it should qualify for the dark

1 fiber trigger in that wire center (TRO ¶408). Specifically, the FCC's rules require that
2 "the competing provider has deployed its own dark fiber facilities, which may include
3 dark fiber facilities that it has obtained on a long-term, indefeasible-right of use basis."
4 (47 C.F.R. § 51.319(e)(3)(i)(A)(1), emphasis added). There is no condition on the
5 existence of extra dark fiber strands that have not yet been lit. In fact, since the use of
6 dark fiber for a carrier's own operations (in contrast to wholesale) requires the carrier to
7 light the fiber, it would not be logical to assume that the self-provisioning trigger would
8 require the presence of unused facilities in order to be met.
9

10 Q. HOW DID YOU IDENTIFY ROUTES WHERE COMPETITIVE CARRIERS HAVE
11 DEPLOYED FACILITIES THAT QUALIFY FOR THE SELF-PROVISIONING
12 TRIGGER FOR DS3 AND DARK FIBER ROUTES?
13

14 A. I initially hoped to rely primarily on discovery responses from competitive carriers.
15 Unfortunately, to date, BellSouth has received far fewer responses than expected, so we
16 have been forced to rely heavily on our own billing and operations data regarding
17 collocation arrangements and fiber entrance facilities. Using discovery and these internal
18 data, a list of fiber-based collocations for each competitive carrier was created and used
19 to generate all the potential transport routes for a given carrier using the assumption that
20 competitive carriers can route traffic between any pair of fiber-based collocation
21 arrangements in a LATA. Furthermore, if a carrier has a collocation arrangement in a
22 BellSouth wire center and it has pulled its own fiber to the collocation, it is reasonable to

1 assume that it should qualify for the self-provisioning trigger for both dark fiber and DS3
2 dedicated transport (due to the channelization I described above).

3
4 It should be noted that some CLECs responded to BellSouth's discovery requests by
5 stating that they did not have transport facilities. However, as explained above, these
6 carriers rely on a misinterpretation of "route" in order to make this claim. In the absence
7 of responses to discovery that comply with the definitions used by the FCC, BellSouth
8 has used its own data. These instances are noted in Exhibit SWP-14.

9
10 Q. WHICH FACILITIES COULD QUALIFY FOR THE "COMPETITIVE WHOLESALE
11 FACILITIES" TRIGGER FOR DS1, DS3 AND DARK FIBER TRANSPORT?

12
13 A. Any route that qualifies for the self-provisioning trigger could meet the wholesale
14 facilities trigger also – the only question is whether the competitive carrier chooses to
15 offer transport on it to other carriers on a wholesale basis. Further, because any carrier
16 with an OCn or DS3 facility is operationally able to provide DS1 transport, I made the
17 same inference concerning qualifying facilities for DS1 transport as for DS3 transport.
18 Additional DS3 and DS1 facilities that qualify for wholesale are included only if we
19 learned through discovery of facilities that meet the conditions of the wholesale triggers
20 but not the self-provisioning triggers (i.e., the carrier does not own the underlying fiber
21 used in the transport facility).

1 Finally, for dark fiber the wholesale trigger requires the competitive provider to have
2 unused dark fiber to sell to other carriers and that requesting carriers are able to obtain
3 reasonable and nondiscriminatory access to the competing providers' termination points
4 through a cross-connect to the providers' collocations. (§51.319(e)(3)(i)(B)). For the
5 reasons explained by Mr. Gray, it is logical to assume that interoffice facilities have spare
6 fiber strands. Furthermore, our billing records indicate that most CLECs that pulled fiber
7 into BellSouth's wire centers requested 2 cables of 12-24 strands each, leaving plenty of
8 spare strands to wholesale. In short, unless we learn through discovery that carriers do not
9 have extra dark fiber, it is reasonable to assume that any dark fiber facility that meets the
10 self-provisioning trigger may count toward the wholesale trigger also, if the provisioning
11 CLEC chooses to wholesale them.

12
13 Q. HAVE YOU IDENTIFIED CARRIERS THAT USE THEIR FACILITIES TO OFFER
14 DEDICATED TRANSPORT ON A WHOLESALE BASIS? IF SO, HOW?

15
16 A. Yes. A list of carriers that offer wholesale facilities is included as Exhibit SWP-6 (see
17 my loop testimony above for a description of how this list was compiled). Excerpts from
18 the advertisements, public statements, and industry reports regarding these carriers'
19 wholesaling activities are included in Exhibit SWP-12.

20
21 As I explained for high-capacity loops, it is important to note that for a competitive
22 provider to qualify for the wholesale trigger, it does not have to be *currently selling*

1 wholesale services – the Order is clear that the competitive provider only has to be
2 *willing* to provide wholesale service (TRO ¶ 412).

3
4 Although, as previously discussed, some carriers have supplied discovery responses
5 indicating that they do not provide wholesale transport in light of CLECs
6 misinterpretation of “route”, BellSouth relied upon evidence other than self-serving
7 discovery responses to conclude a carrier provides wholesale transport. Exhibit SWP-14
8 lists these carriers. The evidence that I relied upon is set forth in Exhibit SWP-12.

9
10 Q. DOES BELLSOUTH PROVIDE ROUTE-SPECIFIC EVIDENCE THAT THE
11 WHOLESALE TRIGGER HAS BEEN MET?

12
13 A. Yes. BellSouth does in fact provide route-specific evidence that the wholesale trigger, as
14 described by the FCC in the TRO, is met. Wherever relief is claimed, granular evidence
15 is presented that at least two competitive carriers who are willing to offer wholesale
16 service are present along each route at the specific capacity level.

17
18 A carrier only counts towards the trigger on a given route if it has deployed its own
19 facilities on that specific route and is a wholesaler. BellSouth uses data from discovery
20 and its own internal billing and operations data to obtain granular evidence that carriers
21 have deployed their own facilities on a route-by-route basis. Carriers are classified as
22 wholesalers at the carrier level based on the evidence from discovery and other evidence

1 that indicates a carrier's willingness to wholesale. This evidence is presented in summary
2 form in Exhibit SWP-12.

3
4 As explained earlier, the classification of a carrier as a wholesaler is made at the carrier
5 level since the willingness to sell wholesale to other carriers is part of each carrier's
6 commercial strategy rather than a decision that is made at a granular level for each route
7 and customer location. The wholesale trigger defined by the FCC in the TRO is
8 consistent with this standard since it does not require the carrier to currently provide
9 wholesale service in the customer location, but only that it is willing to offer access to its
10 loop facilities on a wholesale basis (e.g., see TRO, 412).

11
12 It would be bizarre for a wholesaler to selectively refuse to provide wholesale service on
13 part of its facilities since this would create serious problems in terms of relationship with
14 customers, marketing strategy, and even internal operations to differentiate facilities that
15 can and cannot be offered on a wholesale basis.

16
17 All the evidence that BellSouth collected, including advertisements, public statements
18 and industry reports, support the assumption that carriers willing to sell their own
19 facilities on a wholesale basis do not selectively refuse to provide wholesale service on
20 part of their facilities. Any criterion that required evidence of willingness to wholesale at
21 the route level would be impossible to meet – carriers do not advertise wholesale service
22 on a route-by-route basis, but rather indicate general willingness to do so.

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- Q. HAVE YOU IDENTIFIED ROUTES THAT MEET THE DS1 WHOLESALE FACILITIES TRIGGER? IF SO, PLEASE IDENTIFY THOSE ROUTES.
- A. Yes. The routes that satisfy the wholesale trigger for DS1 transport are listed in Exhibit SWP-7. Supporting evidence is presented in Exhibits SWP-6 and SWP-8. Exhibit SWP-8 shows, by route, the carriers that have deployed transport facilities in Alabama and the capacities the carrier is capable of providing on that route. Exhibit SWP-6 lists carriers that are willing to offer transport services on a wholesale basis and whether the carrier has provided discovery responses to BellSouth.
- Q. DO THE FACILITIES USED TO DETERMINE THE ROUTES IDENTIFIED IN EXHIBIT SWP-7 TERMINATE IN A COLLOCATION ARRANGEMENT?
- A. Yes. The methodology used to identify routes that meet the trigger assures that all the facilities used in the trigger analysis terminate in collocation arrangements on both ends.
- Q. HAVE YOU IDENTIFIED ROUTES THAT MEET THE DS3 SELF-PROVISIONING TRIGGER? IF SO, PLEASE IDENTIFY THOSE ROUTES.
- A. Yes. The routes that satisfy the self-provisioning trigger for DS3 transport are listed in Exhibit SWP-9. Supporting evidence is presented in Exhibit SWP-8, as described above.

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Q. DO THE FACILITIES USED TO DETERMINE THAT THE ROUTES IDENTIFIED
IN EXHIBIT SWP-9 TERMINATE IN A COLLOCATION ARRANGEMENT?

A. Yes. The methodology used to identify routes that meet the trigger assures that all the
facilities used in the trigger analysis terminate in collocation arrangements on both ends.

Q. HAVE YOU IDENTIFIED ROUTES THAT MEET THE DS3 WHOLESALE
FACILITIES TRIGGER? IF SO, PLEASE IDENTIFY THOSE ROUTES.

A. Yes. The routes that satisfy the wholesale trigger for DS3 transport are listed in Exhibit
SWP-9. Supporting evidence is presented in Exhibits SWP-6 and SWP-8, as described
above.

Q. DO THE FACILITIES USED TO DETERMINE THAT THE ROUTES IDENTIFIED
IN EXHIBIT SWP-9 TERMINATE IN A COLLOCATION ARRANGEMENT?

A. Yes. The methodology used to identify routes that meet the trigger assures that all the
facilities used in the trigger analysis terminate in collocation arrangements on both ends.

Q. HAVE YOU IDENTIFIED ROUTES THAT MEET THE DARK FIBER SELF-
PROVISIONING TRIGGER? IF SO, PLEASE IDENTIFY THOSE ROUTES.

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A. Yes. The routes that satisfy the self-provisioning trigger for dark fiber transport are listed in Exhibit SWP-10. Supporting evidence is presented in Exhibit SWP-8, as described above.

Q. DO THE FACILITIES USED TO DETERMINE THAT THE ROUTES IDENTIFIED IN EXHIBIT SWP-10 TERMINATE IN A COLLOCATION ARRANGEMENT?

A. Yes. The methodology used to identify routes that meet the trigger assures that all the facilities used in the trigger analysis terminate in collocation arrangements on both ends.

Q. HAVE YOU IDENTIFIED ROUTES THAT MEET THE DARK FIBER WHOLESALE FACILITIES TRIGGER? IF SO, PLEASE IDENTIFY THOSE ROUTES.

A. Yes. The routes that satisfy the wholesale trigger for dark fiber transport are listed in Exhibit SWP-10. Supporting evidence is presented in Exhibits SWP-6 and SWP-8, as described above.

Q. DO THE FACILITIES USED TO DETERMINE THAT THE ROUTES IDENTIFIED IN EXHIBIT SWP-10 TERMINATE IN A COLLOCATION ARRANGEMENT?

1 A. Yes. The methodology used to identify routes that meet the trigger assures that all the
2 facilities used in the trigger analysis terminate in collocation arrangements on both ends.
3

4 Q. DO THE PROVIDERS USED TO DETERMINE THAT THE ROUTES IDENTIFIED
5 IN EXHIBIT SWP-10 HAVE SUFFICIENT QUANTITIES OF DARK FIBER
6 AVAILABLE TO SATISFY DEMAND ALONG THAT ROUTE?
7

8 A. Yes. For the reasons explained above, we assume that there is enough spare fiber to
9 wholesale unless carriers tell us otherwise through discovery. In those instances, the
10 transport facility is not included in Exhibit SWP-10. Therefore I believe that there are
11 sufficient quantities of dark fiber in all routes in Exhibit SWP-10 to satisfy current
12 demand.
13

14 **IV. TRANSITION**

15 Q. FOR LOCATIONS AND ROUTES WHERE ONE OR MORE OF THE TRIGGERS IS
16 MET, AND THERE IS THEREFORE NO IMPAIRMENT AT THOSE LOCATIONS
17 AND ALONG THOSE ROUTES, WHAT IS THE APPROPRIATE TRANSITION
18 PERIOD?
19

20 A. BellSouth will continue to offer loops and transport at a market rate so a transition period
21 is unnecessary. However, if the Commission determines that a transition period is
22 required, 90 days is reasonable.

1
2 Q. CLECS HAVE ARGUED IN OTHER FORUMS THAT A LONG TRANSITION
3 PERIOD IS NEEDED BECAUSE CLECS HAVE ENTERED INTO CONTRACTS
4 WITH CUSTOMERS BASED ON UNE COSTS AND COULD NOT TOLERATE
5 “SUDDEN COST INCREASES”. PLEASE ADDRESS THIS ARGUMENT.
6

7 A. First, the FCC’s initiated its Triennial Review in December 2001. Consequently, all
8 carriers have been on notice at least for the past two years that some unbundled network
9 elements may be de-listed. Carriers have had more than sufficient time to make
10 contingency plans for this eventuality.
11

12 Second, and more importantly, if this Commission finds that CLECs are not impaired
13 along a route or to a customer location, such a finding means there are alternatives to
14 UNEs available. While a carrier may take time to evaluate its options and negotiate
15 terms with other carriers, including the ILEC, a long transition period would only delay
16 the movement of carriers toward the goal of promoting facilities-based competition as
17 rapidly as possible. A long transition period would also require ILECs to continue to
18 subsidize competitors in areas in which no impairment exists. A more reasonable time
19 frame to allow carriers to make such alternative arrangements is 90 days.

1

2 **V. CONCLUSION**

3 Q. ARE YOU SUBMITTING THE FINAL LIST OF ROUTES AND BUILDINGS
4 WHERE YOU CLAIM THE TRIGGERS FOR DEDICATED TRANSPORT OR
5 LOOPS, RESPECTIVELY, HAVE BEEN SATISFIED?

6

7 A. No. We reserve the right to modify the list of locations and routes based on further
8 discovery responses from carriers.

9

10 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

11

12 A. Yes.

Exhibit 1: Carriers classified as wholesalers in analysis of FCC's triggers for high-capacity loops - State of Alabama

ADELPHIA/TELCOVE
GLOBAL CROSSING
KMC TELECOM
XSPEDIUS

Exhibit 2: Customer locations in BellSouth territory where FCC's triggers for DS1 loops are met - State of Alabama

Customer location			Triggers met	
Index	Address	City	Self-provisioning	Wholesale
1	103 DAUPHIN ST	MOBILE	N/A	YES
2	500 SAINT FRANCIS ST	MOBILE	N/A	YES

**Exhibit 3: Competitive carriers with high-capacity loop facilities to
customer locations in BellSouth territory-State of Alabama**

PROPRIETARY INFORMATION

Exhibit 4: Customer locations in BellSouth territory where FCC's triggers for DS3 loops are met - State of Alabama

Customer location			Triggers met	
Index	Address	City	Self-provisioning	Wholesale
1	103 DAUPHIN ST	MOBILE	YES	YES
2	500 SAINT FRANCIS ST	MOBILE	YES	YES
3	38 WASHINGTON AVE	MONTGOMERY	YES	NO

Exhibit 5: Customer locations in BellSouth territory where FCC's triggers for dark fiber loops are met - State of Alabama

Customer location			Triggers met	
Index	Address	City	Self-provisioning	Wholesale
1	103 DAUPHIN ST	MOBILE	YES	N/A
2	500 SAINT FRANCIS ST	MOBILE	YES	N/A
3	38 WASHINGTON AVE	MONTGOMERY	YES	N/A

Exhibit 6: Carriers classified as wholesalers in analysis of FCC's triggers for dedicated transport - State of Alabama

ADELPHIA/TELCOVE
ICG TELECOM
ITC^DELTACOM
KMC TELECOM
MCI
XSPEDIUS

Exhibit 7: Interoffice routes in BellSouth territory where FCC's triggers for DS1 transport are met - State of Alabama

Route				Triggers met	
Index	CLLI 1	CLLI 2	LATA	Self-provisioning	Wholesale
1	BRHMALFS	BRHMALMT	BIRMINGHAM, AL	N/A	YES
2	BRHMALMT	BRHMALRC	BIRMINGHAM, AL	N/A	YES
3	HNVALMT	HNVALUN	HUNTSVILLE, AL	N/A	YES
4	MOBLALAZ	MOBLALOS	MOBILE, AL	N/A	YES
5	MTGMALDA	MTGMALMT	MONTGOMERY, AL	N/A	YES
6	MTGMALDA	MTGMALNO	MONTGOMERY, AL	N/A	YES
7	MTGMALMT	MTGMALNO	MONTGOMERY, AL	N/A	YES

**Exhibit 8: Competitive carriers with transport facilities on routes between
BellSouth wire centers in the same LATA-State of Alabama**

PROPRIETARY INFORMATION

Exhibit 9: Interoffice routes in BellSouth territory where FCC's triggers for DS3 transport are met - State of Alabama

Route				Triggers met	
Index	CLLI 1	CLLI 2	LATA	Self-provisioning	Wholesale
1	BRHMALFS	BRHMALMT	BIRMINGHAM, AL	NO	YES
2	BRHMALMT	BRHMALRC	BIRMINGHAM, AL	NO	YES
3	HNVIALMT	HNVIALUN	HUNTSVILLE, AL	NO	YES
4	MOBLALAZ	MOBLALOS	MOBILE, AL	YES	YES
5	MTGMALDA	MTGMALMT	MONTGOMERY, AL	NO	YES
6	MTGMALDA	MTGMALNO	MONTGOMERY, AL	NO	YES
7	MTGMALMT	MTGMALNO	MONTGOMERY, AL	NO	YES

Exhibit 10: Interoffice routes in BellSouth territory where FCC's triggers for dark fiber transport are met - State of Alabama

Index	Route			Triggers met	
	CLLI 1	CLLI 2	LATA	Self-provisioning	Wholesale
1	BRHMALMT	BRHMALRC	BIRMINGHAM, AL	NO	YES
2	MOBLALAZ	MOBLALOS	MOBILE, AL	YES	YES
3	MTGMALDA	MTGMALMT	MONTGOMERY, AL	NO	YES
4	MTGMALDA	MTGMALNO	MONTGOMERY, AL	NO	YES
5	MTGMALMT	MTGMALNO	MONTGOMERY, AL	NO	YES

Evidence of Willingness to Wholesale Loops

Carrier	Evidence	Source
Adelphia/Telcove	“Local or intercity. TelCove can deliver the communications solution that is right for you. We are a facilities-based telecommunications provider with an 11-year history of delivering advanced, secure communications over our fiber optic network.”	< http://www.telcove.com/ >
	“Our Synchronous Optical Network (SONET) ring architecture connects your business through fiber optic loops, transmitting information bi-directionally, for built-in, protective redundancy.”	< http://www.telcove.com/network.htm >
	Mobile is shown on the Network Map as “Telcove Owned Markets”	< http://www.telcove.com/about/Network%20Map.pdf >
Global Crossing	Carrier – “Our global reach and extensive data services portfolio offer our carrier customers a powerful presence in the worldwide service provider marketplace.” <u>Access Services</u> – “Local Access” and “Metro Services”	< http://www.globalcrossing.com/xml/carrier/index.xml >
KMC Telecom	“We offer several types of local service, including KMC Business Line Service with either a Basic Business Line (Flat Rate and Measured) or a Basic Business Line with Hunting (Flat Rate and Measured).”	< http://www.kmctelecom.com/advcomm/services/clearxpress.cfm >

“KMC opened for business in Huntsville, Alabama, in 1996. With 120 miles of advanced fiber-optic local SONET networks in the Huntsville area, the KMC network covers downtown, Cummings Research Park, runs west to the airport area and across Redstone Arsenal. The multi-million dollar network utilizes such advanced equipment as the Lucent 5ESS switch, which provides state-of-the-art switching capabilities for local, long distance and enhanced telephone services. In each market, KMC’s network connects the major communications centers including telephone company central offices, long distance points-of-presence, mobile phone switching centers and data nodes... In Huntsville, KMC offers a broad array of state-of-the-art local and long distance services, as well as advanced data and Internet access solutions: Phone Service; Data and Internet Access Service; Integrated Phone, Data, and Internet Service; Custom and Wholesale Services” Similar pages exist for: Montgomery.

<<http://www.kmctelecom.com/advcomm/cities/index.cfm?fuseaction=citydetail&cityid=6>>

“KMC Telecom Wholesale Services - Your facilities-based full-service wholesale provider, offering a range of private line, switched and network outsourcing services to local, long-haul, wireless, cable and Internet Service Providers throughout the US.
KMC Telecom offers custom, timely, end-to-end solutions to help you minimize costs and extend your reach to meet your customer needs.
KMC's Wholesale Services portfolio delivers:
A nationwide data platform, covering 1400+ cities currently (and expanding), for wholesale PRI, voice, and dialtone services
35 local, facilities-based fiber-optic networks in Tier II and Tier III cities, with over 1700 on-net buildings, and interconnects with major central offices and carrier points of presence (POPs).”

<<http://www.kmctelecom.com/Wholesale/>>

Xspedius	Carrier Solutions: “Xspedius Communications offers superior products and services to carrier customers in 36 markets the United States.” Special Access: “Xspedius Communications Special Access is the perfect alternative for your local access networking needs. Our Special Access service provides optimal connectivity to major business districts, interexchange carrier points of presence (POPs), local serving offices (LSOs), carrier hotels and commercial end-user buildings.”	< www.xspedius.com/carrier/index.shtml >
	“Special Access works off of our Metro SONET rings and can provide service between a customer location and a network service provider POP or between two service providers.”	< www.xspedius.com/carrier/spacc.shtml >
	“Xspedius Fiber Group is a wholly owned subsidiary of Xspedius Communications. ...Each metropolitan area network is strategically designed for optimal connectivity of major Business Districts, Local Serving Offices, Carrier Hotels, and Interexchange Carrier Points-of-Presence (POP) sites. ”	< http://www.xspedius.com/about/affiliates.shtml >
	Birmingham, Montgomery and Mobile are shown on the Network Map as being cities in which Xspedius has a “metrofiber network”	< http://www.xspedius.com/images/int_network_map.pdf >

Evidence of Willingness to Wholesale Transport

Carrier	Evidence	Source
Adelphia/Telcove	“Local or intercity. TelCove can deliver the communications solution that is right for you. We are a facilities-based telecommunications provider with an 11-year history of delivering advanced, secure communications over our fiber optic network.”	< http://www.telcove.com/ >
ICG Telecom	Special Access: “Special Access from ICG Communications offers a dedicated, intralLATA transport service connecting your Point of Presence (POP) to a carrier, POP, or customer designated end-user. Special Access can carry voice, data, and/or video traffic at DS-1, DS-3 and OC-N capacities.	< http://www.icgcomm.com/products/carrier/special_access.asp >
	ICG’s Network: “ICG also has a voice network serving California, Colorado, Ohio, Texas and parts of the southeastern United States....ICG Markets: Alabama: Birmingham...Georgia: Atlanta...Kentucky, Louisville...North Carolina: Charlotte...Tennessee: Nashville”	< http://www.icgcomm.com/products/network.asp >
ITC^DeltaCom	Many Alabama cities are shown on the Network Map as having POPs, ITC^DeltaCom fiber passing through them, and five have switches.	< http://www.itcdeltacom.com/fiberoptic_network.asp >

“Interstate FiberNetSM, Inc (IFN), an ITC^DeltaCom company, is known as the dominant carrier in the southern United States. With an impeccable reputation for on-time delivery, cost-effective reliability, and state-of-the-art technology integration, we offer comprehensive carrier services to inter-exchange carriers, CLECs, LECs, ILECs, ISPs, and wireless carriers, including: Broadband Services; Metro Network Services; PRI Services; Operator Services and Directory Assistance Services; Data Services, ATM, and Frame; Dark Fiber. Our carrier services portfolio incorporates a variety of technologies including local number portability (LNP) for local service using existing numbers and PRI services for ISPs. We own and operate 24 x 7 x 365 call centers featuring comprehensive operator services and national directory assistance. We also provide carriers with access to cost-effective DS1, DS3, and OC-n bandwidth capacities.

IFN has the largest network in the southern United States. Our network features Cisco GSR routers and fiber optic infrastructure that covers 14 states. With 236 POPs and unsurpassed network density, we provide reliable, high-speed access and connectivity for your customers.”

<<http://www.itcdeltacom.com/carrier.asp>>

KMC Telecom

“KMC Carrier Transport Service Applications: We bring all the pieces together for you. Our advanced multi-service broadband network platform is built for the future. We layer voice services directly through our #5ESS-2000 Lucent switch and over our local SONET Ring network for greater cost-efficiency, increased reliability, better performance and products that easily accommodate technology advances. KMC Carrier Transport Service product family includes a complete line of wholesale applications.”

<<http://www.kmctelecom.com/advcomm/services/cl earpipe.cfm>>

	<p>“Among other full-service features, KMC Telecom's collection of wholesale services includes a variety of offerings for the origination and termination of traffic in KMC Telecom cities. All services include access and transport of traffic over KMC Telecom's SONET Optical-Fiber Ring.”</p>	<p><http://www.kmctelecom.com/advcomm/services/clearthrough.cfm></p>
	<p>Huntsville and Montgomery are shown as “Advanced Communication Service Areas” on the Network Map</p>	<p><http://www.kmctelecom.com/maps.cfm></p>
	<p>Birmingham, Montgomery and Huntsville are shown as “KMC Fiber Markets” on the Network Map. There are at least three additional Alabama cities shown as “Data Service Markets” on the map.</p>	<p><http://www.kmctelecom.com/advcomm/images/map_large.jpg></p>
MCI	<p>Global Data Link: “International, national and metropolitan managed bandwidth for either standard point to point services, or providing you with a simple upgrade and economy of scale through the channelized point to point and point to multi-point options.”Direct Switched Voice Services: “Your switch connects to WorldCom’s global infrastructure using a dedicated, secure direct line or by linking the building to a WorldCom Metropolitan Area Network.”</p>	<p><http://global.mci.com/wholesale/services4U/carrier/carrierbrochurenew.pdf></p>
	<p>“WorldCom, Inc. officially announced its name change back to MCI, with UUNET as the sub-brand for its wholesale services.... It is targeting, basically, everyone from wholesale to retail, from consumer up through large enterprises.”</p>	<p><http://global.mci.com/news/presskit/strategy/current.pdf></p>
	<p>“As a carrier's carrier, UUNET wants to be your partner in the telecom world of tomorrow.”</p>	<p><http://global.mci.com/wholesale/services4U/carrier/></p>

Xspedius	Carrier Solutions: “Xspedius Communications offers superior products and services to carrier customers in 36 markets the United States.” Special Access: “Xspedius Communications Special Access is the perfect alternative for your local access networking needs. Our Special Access service provides optimal connectivity to major business districts, interexchange carrier points of presence (POPs), local serving offices (LSOs), carrier hotels and commercial end-user buildings.”	< www.xspedius.com/carrier/index.shtml >
	“Special Access works off of our Metro SONET rings and can provide service between a customer location and a network service provider POP or between two service providers.”	< www.xspedius.com/carrier/spacc.shtml >
	“Xspedius Fiber Group is a wholly owned subsidiary of Xspedius Communications. ...Each metropolitan area network is strategically designed for optimal connectivity of major Business Districts, Local Serving Offices, Carrier Hotels, and Interexchange Carrier Points-of-Presence (POP) sites. ”	< http://www.xspedius.com/about/affiliates.shtml >
	Birmingham, Montgomery and Mobile are shown on the Network Map as being cities in which Xspedius has a “metrofiber network”	< http://www.xspedius.com/images/int_network_map.pdf >

Carriers for which BellSouth Used GeoResults Data for Loops

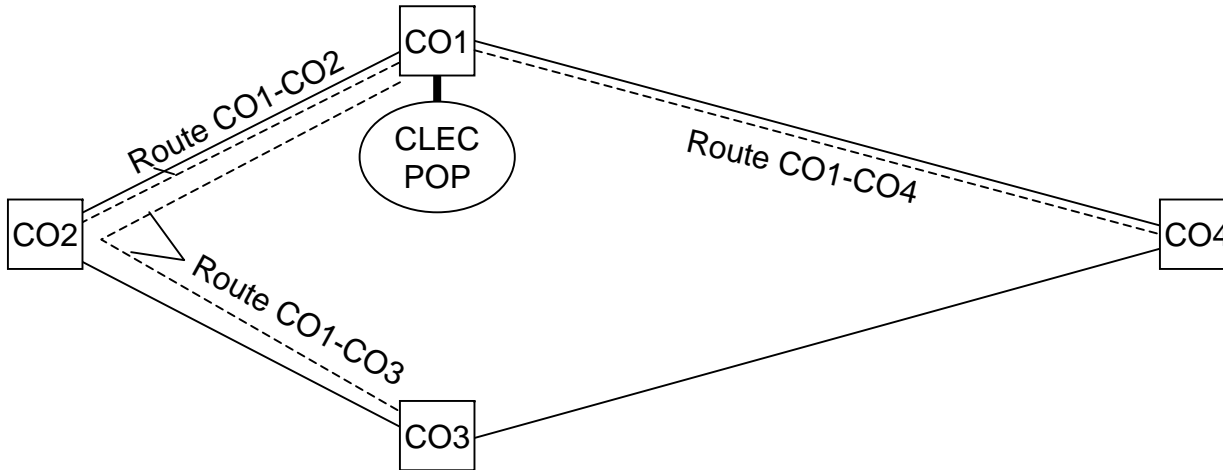
Carrier	Discovery	Use of GeoResults data
ALLTEL Communications	Served but no response yet	Only source of data on loop deployment
DSLNet Communications	Served but no response yet	Only source of data on loop deployment
Global Crossing	Served but no response yet	Only source of data on loop deployment
ICG Telecom	Served but no response yet	Only source of data on loop deployment
KMC Telecom	Served but no response yet	Only source of data on loop deployment
Knology	Served but no response yet	Only source of data on loop deployment
Madison River Communications	Served but no response yet	Only source of data on loop deployment
McLeodUSA	Served but no response yet	Only source of data on loop deployment
US LEC	Served but no response yet	Only source of data on loop deployment

Carriers for which BellSouth Supplemented Carrier's Discovery Responses for Transport with BellSouth Internal Data

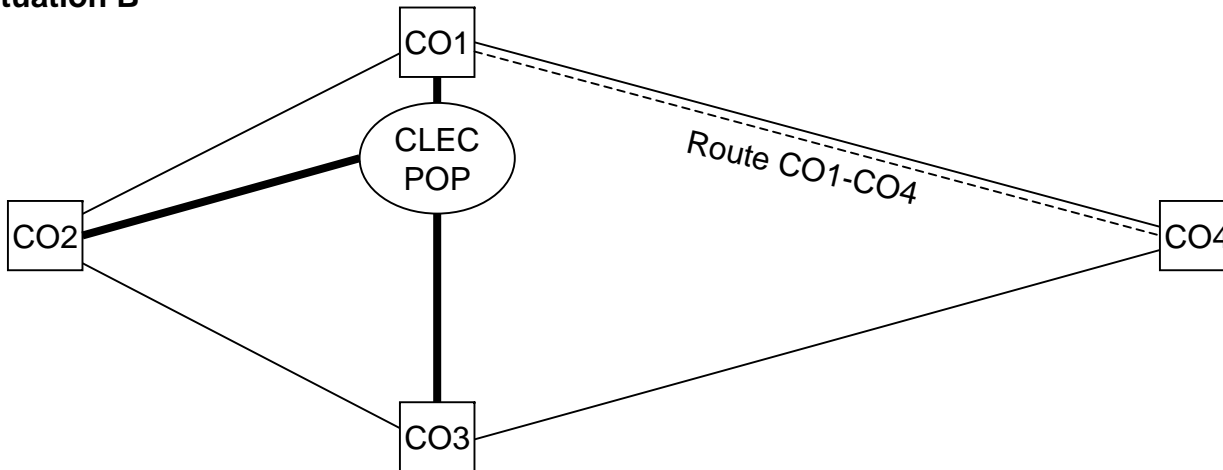
Carrier	Discovery	Use of BellSouth internal data
Adelphia/Telcove	Provided incomplete data	Complemented discovery with additional fiber-based collocations from BellSouth internal data. BellSouth data was needed given incomplete discovery data.
Harbor Communications	Served but no response yet	Only source. Fiber-based collocations in BellSouth central offices
ICG Telecom	Served but no response yet	Only source. Fiber-based collocations in BellSouth central offices
ITC^DeltaCom	Claims it does not have dedicated transport	Only source currently used. Fiber-based collocation sin BellSouth central offices
KMC Telecom	Served but no response yet	Only source. Fiber-based collocations in BellSouth central offices
Xspedius	Claims it does not have dedicated transport	Only source currently used. Fiber-based collocation sin BellSouth central offices

ENTRANCE FACILITIES AS BUILDING BLOCKS AT CLEC TRANSPORT ROUTES

Situation A



Situation B



CLEC builds 2 new entrance facilities to bypass ILEC on dedicated transport routes

- CLEC deploys alternative transport facilities for routes CO1-CO2, CO1-CO3, and CO2-CO3 (not used)
- CLEC continues to purchase dedicated transport from ILEC on route CO1-CO4